



Time Off in Lieu and Overtime Policy

Approved by:	Finance Committee	Date: 13/06/2023
Last reviewed:	February 2021	
Next review due by:	28/04/2025	

1. Introduction

1.1 The Trust recognises that the nature of its work means that on occasions employees will be needed to work outside recognised working hours. However, the Trust also acknowledges its duty to protect the health and safety of its employees by ensuring that they do not work excessive hours, and that any additional hours are agreed in advance and monitored appropriately. It is the responsibility of the line manager to oversee their team's workloads to ensure work is completed within the normal working week.

1.2 The Time Off in Lieu (TOIL) & Overtime Procedure is a guideline for line managers to assist them in planning and managing the working hours of employees who are asked to work additional hours when there is a busy period, specific event or a peak in workload. However, the Trust recognises that overtime working is voluntary and is not a contractual obligation.

1.3 It is imperative that the provision of services must always take precedence and it is a line manager's responsibility to ensure that this is observed. Line managers will always consider allocating time off in lieu first as an alternative to paid overtime, wherever possible. However, in certain circumstances, it may be appropriate for any employee within an operational role to be compensated for additional hours by use of overtime rather than TOIL.

1.4 When asking an employee to work overtime, the Working Time Regulations 1998 must be considered. These guidelines state that an individual should not work more than 48 hours per week on average. (Further guidance on the application of the Regulations is available from HR).

2. Procedure

2.1. Time off in Lieu is time off which employees are allowed to take instead of receiving overtime pay, for hours worked beyond the normal working day.

2.2 It applies to additional periods of work either before or after the normal working day (as specified in the individual employees contract of employment). It does not apply to lunch periods. Line managers should ensure that employees get the appropriate lunch break each day. If lunchtime meetings are necessary then employees should be allowed to take a break either before or after the meeting, to ensure compliance with Working Time Regulations, however for operational employees, where this will impact on the service levels, the line manager should consult with HR for the appropriate solution where necessary.

2.3. The procedure applies to all employees who are employed by at the Trust except Teaching employees. It does not apply to agency workers (unless they are employed for more than 12 weeks) or casual workers.

2.4 For part-time employees TOIL would apply for hours worked over and above their contractual hours.

3. Staff Planning

3.1 When a manager is aware that a busy period, specific event or a peak in workload is approaching he/she should plan accordingly and review available staffing. Consideration should be given to maximising the available employees in the department, through ways such as revising annual leave requests for that specific period, seeing whether additional temporary

employees/support can be provided by another Trust/Service, or having considered the financial implications, whether resource is required through an approved recruitment agency.

3.2 Please note: all requests to hire agency temps must go through the Head.

3.3 When additional staffing hours are required, the line manager should consider whether TOIL is the most appropriate method to use to cover this. The line manager should ensure:

- That working additional hours is voluntary.
- That the additional hours are required for a limited period of time only and relate to agreed and specified working activities – if it is for a period longer than a month then the line manager should review the overall staffing needs for the department to ensure working practices are efficient and effective.
- Employees receive appropriate breaks during additional work in order to comply with the Working Time Regulations.
- Accruing leave within the TOIL system

4.1 TOIL for additional hours must be authorised in advance of any additional hours worked, by the employee's line manager. If prior authorisation is not in place, then the additional hours will not qualify for the accrual of TOIL and will be lost.

4.2 Time off accumulated through TOIL arrangements must be equal to time actually worked – i.e. plain time. There is no enhancement for time accumulated through TOIL at a weekend.

4.3 A minimum of 30 minutes must be worked at any one time before TOIL will accrue (this will still count toward the overall total accrued, for example, an employee who works 30 minutes extra in the morning and 30 minutes in the evening on the same day will accrue 60 minutes TOIL. However, working 15 minutes on Monday and 15 minutes on Tuesday will not qualify).

5. The TOIL accounting period

5.1 TOIL should be taken as soon as practicably possible after it has been accrued and in any event, it must be taken within the term of accrual.

5.2 TOIL accrued and not redeemed within the term of accrual will be considered lost and no monetary compensation will be offered as an alternative.

5.3 The maximum amount of TOIL accrued per term cannot exceed 2 days.

6. Taking authorised TOIL

6.1 When an employee wishes to take approved TOIL this should be agreed with the relevant line manager at least one week in advance and if possible agreed when the additional hours are worked. The line manager may not agree to the request in cases where this leave will conflict with the provision of an adequate and efficient service by the Trust.

6.2 Where line managers do not approve the requested TOIL, suitable alternative dates should be identified, suggested and agreed as soon as practicable.

7. Line manager's responsibilities

7.1 Line managers will co-ordinate all TOIL for their team to ensure that there is adequate cover for their area of service/business.

7.2 Line managers should ensure that employees are given reasonable opportunity to take any accrued TOIL within the term of accrual and agree the taking of toil when additional hours are worked.

7.3 Line managers should ensure that TOIL is not used as a method of flexible working but only used occasionally to deal with fluctuations in workload.

7.4 Line managers must keep a full account of additional hours worked and taken by their employees. It is not the responsibility of HR, Payroll or the individual to record TOIL hours accrued or overtime worked.

8. Overtime

To whom does overtime apply?

8.1 Overtime applies to all employees who are employed by the Trust except Teaching employees. It does not apply to agency employees (unless they are employed for more than 12 weeks) or casual workers.

9. Overtime Principles

9.1 Overtime will be paid at time and one half for all hours worked in excess of 37 (the normal working week). Additional hours worked up to 37 hours will be paid at plain time, for example, an employee who has a normal working week of 28 hours and who works an additional 12 hours would be paid 8.5 hours at plain time and 3.5 hours at time and one half. This is in accordance with Regulation 5(4) of the Part-time Workers (Prevention of Less Favourable Treatment) Regulations 2000.

9.2 Where overtime applies the following principles should be followed:

Overtime must be authorised in advance of any additional hours worked, by the employee's line manager. If prior authorisation is not in place, then the additional hours will not qualify for payment of overtime.

Overtime is an exceptional occurrence rather than a routine occurrence and other options including TOIL and Flexitime should be explored first.

Overtime should be recorded on an Overtime Form, a copy of which is available from each school's office. The Overtime Form must be approved by the Head and submitted to Payroll by a designated person on a monthly basis.

Line managers should ensure that all overtime is properly approved, recorded, checked and monitored.

10. Conclusion

10.1 The operation of this procedure depends on mutual trust. Any abuse of the claiming of TOIL or overtime may lead to action being taken under the Trust's Disciplinary Policy & Procedure.